

Chapter CCXXXII.¹

JURISDICTION OF COMMITTEES TO REPORT APPROPRIATIONS.

1. The rule. Section 2133.
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2133. A rule forbids the carrying of appropriations in bills or joint resolutions reported by committees without jurisdiction to report appropriations.

A rule forbids the offering of amendments proposing appropriations during the consideration of bills or joint resolutions reported by a committee not having jurisdiction to report appropriations.

Questions of order against items proposing appropriations in bills or joint resolutions reported by committees not having jurisdiction to report appropriations, or in amendments to such bills, may be raised at any time.

Section 4 of Rule XXI forbids consideration of proposed appropriations in bills reported by nonappropriating committees and amendments thereto, as follows:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

This rule was adopted June 1, 1920,² to take effect July 1 of that year. It was proposed as part of a resolution concentrating appropriating jurisdiction in one committee, and in collaboration with the bill passed May 29, 1920,³ and eventually enacted in 1921,⁴ providing for a budget system. The section places upon the

¹This chapter has no analogy with any previous chapter.

²Second session Sixty-sixth Congress, Record, p. 8121.

³Second session Sixty-sixth Congress, Record, p. 7956.

⁴First session Sixty-seventh Congress, Record, p. 1859.

consideration of legislative bills inhibitions converse to those provided for appropriation bills in section 2 of Rule XXI.

On December 15, 1920,¹ in discussing the purpose for which this section was adopted, Mr. James R. Mann, of Illinois, said:

The language was put in because of the practice in another body. In this House it has been the rule that the point of order must be made before the debate begins, but in the Senate they can discuss an item for a week and at the end of that time make a point of order, insist upon it, and if the point of order is sustained it goes not. There they can raise the point of order at any time. It was intended by this rule to permit the same thing to be done in the House.

The efficacy of the rule is indicated by its readoption in each succeeding Congress in the form in which originally proposed.

2134. Private bills and joint resolutions, and amendments thereto, carrying appropriations within the limits of the jurisdiction of the Committees on Invalid Pensions, Pensions, Claims, War Claims, Public Lands and Accounts, do not fall within the rule forbidding consideration of items proposing appropriations in connection with bills reported by non-appropriating committees.

On February 25, 1921,² Mr. Clifford Ireland, of Illinois, called up as privileged, for the Committee on Accounts, the resolution (H. Res. 389) providing for an appropriation from the contingent fund of the House.

Mr. Thomas L. Blanton, of Texas, made the point of order that under the section of rule XXI prohibiting the reporting of bills carrying appropriations by a committee without jurisdiction to report appropriations, the Committee on Accounts was not authorized to report the pending resolution.

The Speaker³ overruled the point of order.

2135. On June 24, 1921,⁴ during the consideration of business on the Private Calendar in the Committee of the Whole House, the bill (H. R. 4620), reported by the Committee on Claims, and providing for the payment of a private claim against the Government, was reached.

Mr. Thomas L. Blanton, of Texas, made the point of order that the bill had been reported in violation of the rule prohibiting the reporting by nonappropriating committees of bills carrying appropriations, and therefore was not properly on the calendar.

The Chairman⁵ held:

Clause 4 of Rule XXI says—

“No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.”

The Committee on Accounts has jurisdiction to report appropriations; also the Committee on Claims. Therefore the Chair thinks that the Committee on Claims retains its jurisdiction over private claims against the Government, and that this bill is properly within the jurisdiction of that committee, and overrules the point of order.

¹ Second session Sixty-sixth Congress, Record, p. 392.

² Third session Sixty-sixth Congress, Record, p. 3892.

³ Frederick H. Gillett, of Massachusetts, Speaker.

⁴ First session Sixty-seventh Congress, Record, p. 3050.

⁵ Philip P. Campbell, of Kansas, Chairman.

2136. The rule forbidding consideration of items carrying appropriations in connection with bills reported by nonappropriating committees applies to Senate bills as to House bills.

The fact that a proposed amendment is inconsistent with a proposition already voted upon was held not to warrant its being ruled out by the Speaker.

On August 3, 1921,¹ the bill (S. 674) providing for the distribution of captured war devices and trophies, was under consideration in the Committee of the Whole House on the state of the Union, when the following committee amendment was read:

That to carry out the provisions of this act there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of \$400,000, or so much thereof as may be necessary, to be administered by the Secretary of the Treasury.

Mr. Finis J. Garrett, of Tennessee, made a point of order against the amendment on the ground that the Committee on Military Affairs reporting the bill was without jurisdiction to report appropriations.

Mr. Julius Kahn, of California, argued that as the bill was a Senate bill, the rule, prohibiting the consideration of items carrying appropriations in connection with bills reported by committees not having jurisdiction to report appropriations, did not apply.

The Chairman² ruled:

The gentleman from Tennessee, Mr. Garrett, makes the point of order against the language in section 7 of the bill, which is as follows:

"That to carry out the provisions of this act there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of \$400,000, or so much thereof as may be necessary, to be administered by the Secretary of the Treasury."

Clause 4 of Rule XXI reads as follows, as has already been pointed out by the gentleman from Tennessee:

"No bill or joint resolution appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time."

This language is clearly an appropriation. Under the new rule the Committee on Military Affairs has no appropriating power, and the language to which the point of order is made is clearly a violation of Rule XXI. The point of order is therefore sustained.

Thereupon Mr. Kahn offered this amendment:

That to carry out the provisions of this act there is hereby authorized to be appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of \$400,000, or so much thereof as may be necessary.

Mr. Garrett interposed the point of order that the committee had previously rejected a similar amendment providing that the expenses should be borne by the community, without cost to the Government, and the proposition having once been passed upon by the committee and having been adjudicated, it was not in order to submit an inconsistent amendment.

¹First session Sixty-seventh Congress, Record, p. 4620.

²Joseph Walsh, of Massachusetts, Chairman.

The Chairman said.

Jefferson's Manual contains the following paragraph:

"SEC. 459. If an amendment be proposed inconsistent with one already agreed to, it is fit ground for its rejection by the House, but not within the competence of the Speaker to suppress it as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of observe, the legislative will."

The Chair thinks in accordance with the precedent there laid down and the principle established it is not within the jurisdiction of the Chair to declare this amendment subject to a point of order upon the ground that it is inconsistent with the previous action of the committee, and therefore the Chair overrules the point of order.

2137. A point of order against an appropriation in a bill reported by a committee without jurisdiction to report appropriations lies against a Senate bill as against a House bill and may be raised at any time.

On February 7, 1927,¹ during consideration of business on the Consent Calendar, the bill (H. R. 14833) for the widening of Nicholas Avenue was reached.

On motion of Mr. Louis C. Cramton, of Michigan, by unanimous consent, it was agreed to consider in lieu of the House bill the bill (S. 4727), of similar tenor containing this provision:

That the appropriation contained in the District of Columbia appropriation act for the fiscal year ending June 30, 1927 (Public No. 205, 69th Cong.), for the opening, extension or widening of streets, avenues, roads, or highways in accordance with the plan of the permanent system of highways in that portion of the District of Columbia outside of the cities of Washington and Georgetown, is hereby made available to pay the awards and expenses under the act and the amounts assessed as benefits, when collected, shall be covered into the Treasury to the credit of the District of Columbia.

After debate and while an amendment was pending, Mr. Cramton made the point of order that this section provided for an appropriation in a bill not reported by a committee authorized to report appropriations.

Mr. Thomas L. Blanton, of Texas, submitted that the point of order came too later after the bill was under consideration and after Mr. Cramton had himself moved to substitute the Senate bill.

The Speaker pro tempore² said:

The Chair would rule that the point of order never comes too late. It is in order at any time under the rules. The gentleman from Michigan now makes it. His point of order is good against the offending language. The Chair sustains the point of order.

2138. While in order "at any time," it has been held that a point of order under section 4 of Rule XXI should be raised at a time consistent with the orderly consideration of the bill to which applied.

On January 24, 1923,³ while the bill (H. R. 13773) regulating radio communication, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Thomas L. Blanton, of Texas, made a point of order against a paragraph which had not yet been reached in the reading of the bill.

¹ Second session Sixty-ninth Congress, Record, p. 3192.

² John Q. Tilson, of Connecticut, Speaker pro tempore.

³ Fourth session Sixty-seventh Congress, Record, p. 2354.

The Chairman¹ entertained the point of order, but on January 31, when the House again resolved itself into Committee of the House on the state of the Union for consideration of the bill, said:

When the committee rose on Wednesday last the gentleman from Texas, Mr. Jones, was asked recognition to offer an amendment. Before the Chair recognizes the gentleman, with his indulgence, the Chair wishes to correct a ruling which he made offhand in respect to the timeliness of points of order to provisions of bills carrying appropriations.

The Chair ruled just before the committee rose that under the language of clause 4 of Rule XXI the point of order could be made at any time. On subsequent consideration, the Chair wishes to change that ruling. All rules are for the purpose of orderly procedure. If a Member of the House should be granted the privilege at any time to rise to a point of order on a provision of a bill with more than one section before it is read, it would cause considerable disarrangement in the orderly consideration of bills. No rights are lost by a Member being denied the privilege to raise that point of order until the paragraph to which he wishes to make the point of order is read.

An illustration of the rather loose procedure attendant upon the strict interpretation of this rule, that it may be raised at any time, was shown in the consideration of this bill on Wednesday last. The Chair, on the spur of the moment, gave a literal construction to the rule, which says that it may be raised at any time. At the request of the Chair it was temporarily withdrawn so as to give opportunity to the Chair to consider the parliamentary question, only to have it presented again, rather abruptly, a few minutes later.

The present occupant of the Chair will hold that the phrase "may be raised at any time" means that no Member loses his rights by withholding the making of the point of order when the House resolves itself into the Committee of the Whole House to consider the bill, or even when introduced. It is placed there so as to protect the Member, in order that he may raise it at the proper time, and the Chair will hold that when the committee is considering a bill by paragraphs or sections, and the bill contains a paragraph which some Member claims is violative of clause 4 of Rule XXI, to which the Chair refers, it will not be in order to raise that point of order until the section is read.

The point of order to any paragraph or section of a bill because it contains an appropriation which the committee has no authority to report does not vitiate the entire bill. It merely destroys that part of the bill, so far as the appropriating feature is concerned. Mr. Speaker Gillett, in a ruling made at the instance of our later parliamentary leader, Mr. James R. Mann, who raised the question so as to have a ruling, decided as to the opportuneness of pressing a point of order that it was akin to points of order raised on appropriation bills, that the appropriating committee has no authority to carry legislation on an appropriation bill, and that in the consideration of appropriation bills a Member is not privileged to rise to make a point of order at any time to some subsequent provision merely because the bill carries a paragraph embodying legislation which violates the rule. The Chair follows the logic of that ruling and of the practice of the House in connection with points of order on appropriation bills which carry legislation, and so far as the present occupant of the chair is concerned he wishes to modify the ruling he made last week when this bill was under consideration, that the point of order could be raised at any time at the pleasure of the Member who wishes to raise it. Such a practice would cause confusion in the orderly procedure of the House and of the committee.

2139. On April 15, 1924,² the House resolved itself into the Committee of the Whole House on the state of the Union to consider the joint resolution (S.J. Res. 52) for the relief of the drought-stricken farm areas of New Mexico, reported by the Committee on Agriculture.

¹ Mr. William H. Stafford, of Wisconsin, Chairman.

² First session Sixty-eighth Congress, Record, p. 6391.

During general debate and before the reading of the bill had begun, Mr. John Philip Hill, of Maryland, proposed to raise a question of order against the section of the bill reading as follows:

That for the purposes of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000,000, to be immediately available.

Mr. Louis C. Cramton, of Michigan, said:

Mr. Speaker, while the rule does say it may be raised at any time, the decision in the Sixty-seventh Congress held that, being a Senate bill, it would be necessary to make the point of order effective by an amendment. The orderly way would seem to be that when the section is read, if it is subject to a point of order, the point of order could be made. The rule says it can be made at any time, thus guaranteeing that the gentleman will not lose his rights. The point then being made, if sustained, that part of the bill to which the point of order is made would be stricken out, thereby acting as an amendment, as the Speaker ruled in the Sixty-seventh Congress; but the point being made now before there is general debate, before the resolution is read under the five-minute rule, the effect of it is only to hold that the resolution is not in order.

I do not know how you can send a message to the Senate declaring that Senate resolution is not in order. If the point of order is raised as to a particular provision of a bill, and that point or order is sustained, then that part of the bill is stricken out, that action of the Chair acting as an amendment to the bill, and it would go to the Senate as an amendment to the bill. I suggest that the proper course is to wait until a section is read to which the gentleman wishes to make the point of order.

The Chairman¹ sustained Mr. Cramton's contention and overruled the point of order.

2140. A point of order under section 4 of Rule XXI applies to the appropriation against which directed and not to the bill or section carrying it.

On January 7, 1921,² Mr. James R. Mann, of Illinois, rising to a point of order, said:

Mr. Speaker, I make a point of order that the bill H. R. 15163, on the Union Calendar No. 373, reported from the Committee on Indian Affairs December 17, 1920, is erroneously on the calendar. The committee had not authority to report the bill. I make the point of order for the purpose of having a decision of the Speaker construing the new rule in reference to reporting a bill which carries appropriations. The rule provides, section 4, Rule XXI:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having such jurisdiction. A question of order on an appropriation on any such bill, joint resolution, or amendment thereto may be raised at any time."

The first part of that rule apparently prohibits a committee from reporting a bill which carries an appropriation. The latter part of the rule would seem to indicate that though a bill had been reported a question of order on the reporting of an appropriation might be raised as to the part of the bill providing for the appropriation. The bill on the calendar is a bill which as introduced appropriated \$100,000. The Committee on Indian Affairs, observing the spirit of the new rule, reported the bill with an amendment striking out that appropriation and inserting an authorization. Of course, that evidences the spirit of the committee. It does not effect, however, the question as to whether they had the right to report a bill, because the bill does carry an appropriation. The amendment proposed by the committee does not change the status of

¹ Mr. Cassius C. Dowell, of Iowa, Chairman.

² Third session Sixty-sixth Congress, Record, p. 1110.

the bill as reported to the House, because the amendment might or might not be agreed to by the House. I call this to the attention of the Speaker. I do not know what his view may be upon the question. I only raise it for the purpose of having a construction, after some consideration by the Speaker, so that the Speaker shall decide it and not have it left to conflicting decisions of chairmen in the House. My own view is that the point of order is not good.

It would be still in order, if the bill is reported and properly on the calendar, under the rule to make a point of order against the appropriation and strike it out on the point of order, but if the committee can not report a bill, the result would be that all Senate bills which carried incidentally appropriations and were legislative in character would have to be referred to the Committee on Appropriations, which has no legislative jurisdiction.

The Speaker¹ ruled:

The Chair has given a good deal of thought to this question ever since the rule was adopted, because clearly there are two different interpretations which could be given to the language of the rule. The Chair has tried to come to a conclusion by determining which interpretation would better facilitate the business of the House and would be more in accord with the purposes which the Chair thinks were intended by the rule. At first blush, the reading of the rule would make the point of order applicable. It says:

“No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction.”

The committee in this case, as the gentleman suggested, acted in accord with the spirit of the rule by offering an amendment striking out the appropriation. And if the committee could change the bill and report the bill without the appropriation that would strictly comply with the rule, but a committee only has jurisdiction to report the bill as it originally was, with an amendment. So the bill remains with the appropriation in, despite the suggestion of the committee to amend by striking it out. A point of order is not prevented by the amendment which the committee has adopted. So this offers the plain case of whether a point of order lies against a bill carrying an appropriation and reported by a committee which has no appropriating jurisdiction. That clearly does violate the language of the first line of the rule. At the same time there is clause 2 of Rule XXI, which has long been interpreted in the House and which provides that—

“No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law”—

And so forth. That is a rule of long standing, and is the direct converse of this. That forbids the Committee on Appropriations to report legislation, and this forbids a legislative committee to report appropriations.

That has been construed to mean that the point of order should be made not against the bill itself but against the item in the bill; and in the last clause of the new rule it is provided that a question of order on an appropriation in any such bill may be raised at any time, which seems to indicate that the intention was that the point of order should be raised against the appropriation.

This is in accord with the long practice of the House on appropriation bills, and so it seems to the Chair that the purpose of the rule—to prevent legislative committees from reporting appropriations—will be effected by ruling that the point of order lies against the item of appropriation and not against the reporting of the bill. If the committee had reported an amendment striking out the appropriation and that amendment should be defeated, the point of order could still be made against the appropriation, so that the appropriation would go right out.

It seems to the Chair that in that way the purpose which was intended—to prevent appropriations in legislative bills—would be entirely secured, and in that way we should also be operating along the lines we have been accustomed.

The Chair recognizes that either interpretation could be made. But for the sake of establishing a course of action the Chair will overrule the point of order hold that the point of order must be made to the appropriation itself.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

2141. On December 8, 1924,¹ a day devoted to business reported by the Committee on the District of Columbia, Mr. Frederick N. Zihlman, of Maryland, from that committee, called up the bill (H.R. 5327) for the payment to retired members of the police and fire departments of the District of Columbia of the balance of retirement pay past due them.

Mr. Thomas L. Blanton, of Texas, made the point of order that while the Committee on the District of Columbia was not authorized to report appropriations the bill provided an appropriation of \$68,000.

The Speaker² sustained the point of order, and when Mr. Zihlman proposed to offer an amendment substituting for the language making the appropriation an authorization for the appropriation, the Speaker said:

That does not make the bill in order.

Subsequently, on January 19, 1925,³ immediately prior to adjournment, the Speaker said:

The Chair would like to make a statement. The Chair is informed that while absent to-day, a decision made by the Chair was cited from the Record of December 8 to the effect that a bill reported, which has an appropriation in it when the committee reporting it is not authorized to appropriate, is not in order.

The Chair thinks it is a fair inference from what the Chair said at that time that it could be cited to that effect, and the Chair wishes to state that that was obviously a careless statement on the part of the Chair. It contradicted what the Chair had previously ruled and the Chair does not wish it to be held as a precedent.

2142. Under the rule forbidding consideration of appropriations in connection with bills reported by nonappropriating committees, a point of order should be directed to the item of appropriation in the bill and not to the act of reporting the bill.

The effect of an amendment upon a bill is a question for the House and is not passed upon by the Speaker.

On February 14, 1923,⁴ when the Committee on Agriculture was reached in the Calendar Wednesday call of committees, Mr. Gilbert N. Haugen, of Iowa, from that committee called up the joint resolution (S.J. Res. 265) to stimulate crop production.

The Clerk having reported the title of the joint resolution, Mr. Walter H. Newton, of Minnesota, said:

Mr. Speaker, I make the point of order against the joint resolution and against the whole of it. It carries with it not an authorization for an appropriation, but it carries with it an appropriation of \$10,000,000. The particular phrase will be found in lines 9 and 10, on page 1, and under the rules of the House no such appropriation can be carried except after it has been considered and reported out by the Committee on Appropriations.

In reply, Mr. Everett Sanders, of Indiana, argued:

The Chair will recall that the first ruling made by the Speaker on this question was made by the present Speaker, on a point of order raised by the gentleman from Illinois, Mr. Mann, in

¹ Second session Sixty-eighth Congress, Record, p. 293.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Record, p. 2116; Journal, p. 407.

⁴ Fourth session Sixty-seventh Congress, Record, p. 3664.

which he directed the point of order to the entire bill, not quite in this manner, but he objected to its being on the calendar. He stated that he made the point of order in order that it might be ruled upon by the Speaker rather than a chairman, and he stated that he thought it ought to be overruled; that the rule was ambiguous in that the first part of the rule says:

“No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction.”

Indicating that the bill should not be reported by the committee if it had an appropriation and by reporting the bill was subject to the point of order. However, the Chair held that reading the first part of the sentence of the rule with the second sentence of the rule the appropriation was subject to the point of order. The second part of the rule says:

“A question of order on an appropriation in any such bill, joint resolution, or amendment thereto, may be raised at any time.”

Now let me emphasize the language of the rule, Mr. Speaker:

“A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.”

Indicating that the question of order is directed to the appropriation. I have noticed this joint resolution, and wondered what would happen if the point of order was raised against the one paragraph, and I have concluded that if the point of order is sustained and the appropriation goes out, that the committee then has authority to go ahead and deal with the bill—making an amendment, for instance, for an authorization.

Now let me emphasize the necessity of that construction. Here we have a Senate bill. We did not draft it, our committee did not control it; it comes over here containing a great deal of legislative matter and also contains an appropriation. It goes to the committee having legislative jurisdiction. That committee has jurisdiction of a considerable part of that bill. If there had been an authorization, it would have had all the jurisdiction. If this point of order is sustained the House can not act upon the measure at all, because we can not report it with an amendment because a bill reported with an amendment, under the first ruling of the Chair, is just as much subject to the point of order as the bill reported without any amendment.

The Speaker ¹ overruled the point of order and said:

The last sentence in clause 5 of Rule XXI says:

“A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.”

When this matter first came up the chair in his ruling discussed the matter quite thoroughly and he sees no reason to change the view that he then stated, which was that there was some contradiction in the rule itself, yet the past phrase just quoted seemed then to the Chair and seems now to the Chair to be the controlling one, and that the point of order should be made on the appropriation itself. It seems to the Chair that the results of that ruling are really best for the control of the House over its business. The point made by the gentleman from Ohio, that if you take out the appropriation and it leaves nothing of any account, in that case the whole bill falls, is an argument which has weight in its practical effect, but, after all, that is a matter for the House to decide. If there is nothing left of any practical effect, the House would not care to act upon it. The Chair adheres to his original ruling, that the point of order must be made against the appropriation itself.

The Chair does not think that it is for the Chair to decide in an individual case whether striking out the appropriation makes the bill useless; that is for the House and not for the Chair to determine. The Chair overrules the point of order against the bill as a whole.

Whereupon, Mr. Newton make a point of order against the item of appropriation.

The Speaker sustained the point of order.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

2143. The point of order that a bill reported by a nonappropriating committee contains an appropriation is properly directed to the item of appropriation and not to the act of reporting the bill.

If the point of order is directed to the item of appropriation that item only is eliminated, but if made against the paragraph or section containing the item the entire paragraph or section goes out.

On May 22, 1926,¹ the House was in the Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill, when Mr. Carl E. Mapes, of Michigan, called attention to this section of the bill:

“SEC. 6. The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, and a sufficient sum to pay the cost thereof may be allotted from appropriations heretofore made, or to be hereafter made, for examinations, surveys, and contingencies for rivers and harbors.

Also to this item:

“and the Secretary of War is hereby authorized to expend for this purpose, from appropriations heretofore or to be hereafter made for examinations, surveys, and contingencies, an amount not to exceed \$100,000.”

Mr. Mapes made the point of order that these items were tantamount to appropriations and were not in order in a legislative bill.

The Speaker² ruled:

The Chair has before him the decision on the question raised by Mr. Mann, of Illinois, the precise question that we have here. It was raised for the purpose of obtaining a decision of the Chair. In fact, Mr. Mann said:

“I only raise it for the purpose of having a construction, after some consideration by the Speaker, so that the Speaker shall decide it and no have it left to conflicting decisions by chairmen of the House. My own view is that the point of order is not good.”

The question arises as to the construction of paragraph 4 of Rule XXI, together with the construction of paragraph 2 of Rule XXI. The gentleman from Michigan, Mr. Mapes, makes the point of order that in the first sentence of paragraph 4 this language is found:

“No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.”

Apparently if that sentence were considered by itself and not in connection with the rest of that rule, or with paragraph 2 of Rule XXI, the point of order made by gentleman from Michigan would undoubtedly lie. But construing the two together, as Mr. Speaker Gillett did in that decision, the Chair thinks that a sensible view to take of the proposition is that the point of order should be directed not against the right or jurisdiction of the committee to make the report, but against specific provision to which the objection will lie.

In the opinion of the Chair section 6 of this bill does, at least indirectly, provide an appropriation. The Chair thinks that the point of order made by the gentleman from Michigan, even if made in the House—although such a point is usually made in the committee—will lie against section 6, or at least that portion of it to which the gentleman from Michigan referred.

However, the Chair thinks that the point of order would lie against the following language of section 6:

“And a sufficient sum to pay the cost thereof may be allotted from appropriations heretofore made or hereafter made for examinations, surveys, or other contingencies of rivers and harbors.”

¹ First session Sixty-ninth Congress, Record, p. 9876.

² Nicholas Longworth, of Ohio, Speaker.

That is on line 15. The Chair does not think that the point of order can be directed against the entire bill, and the Chair therefore overrules the point of order of the gentleman from Michigan in so far as it refers to the right of the Committee on Rivers and Harbors to make this report.

Whereupon Mr. Mapes further submitted that these items being subject to a point of order the entire paragraph in which they appeared was subject to the point of order.

The Speaker ruled:

The Chair asked the specific question of the gentleman from Michigan as to whether or not he made his point of order against that language, which the gentleman from New York concedes to be an appropriation or against the paragraph. The gentleman from Michigan says that he makes the point of order against the paragraph. The rule on that seems to be clear:

“And if a portion of a proposed amendment be out of order, it is sufficient for the rejection of the whole amendment; and where a point is made against the whole of a paragraph the whole must go out, but it is otherwise when the point is made only against a portion.”¹

The gentleman from Michigan has made his point of order against the whole paragraph which, in the opinion of the Chair, contains an appropriation, and the Chair therefore sustains the point of order made by the gentleman from Michigan that the entire paragraph must go out.

2144. Inasmuch as the inhibition provided in section 4 of Rule XXI applies to appropriations and not to acts of reporting, motions to discharge nonappropriating committees from consideration of bills carrying appropriations are not by reason of such appropriations subject to points of order.

On May 5, 1924,² Mr. Alben W. Barkley, of Kentucky, proceeding under section 4 of Rule XXVII, moved to instruct the Committee on Interstate and Foreign Commerce to report the bill (H. R. 7358) to provide for arbitration of disputes between carriers and their employees.

Mr. Everett Sanders, of Indiana, called attention to the fact that the bill carried a direct appropriation and made the point of order that under section 4 of Rule XXI the bill was not properly before the Committee on Interstate and Foreign Commerce and could not be reported by that committee.

The Speaker³ decided and said:

The gentleman from Indiana, Mr. Sanders, makes the point of order that the motion to discharge can not be applied to this bill because this bill could not be reported out by the Committee on Interstate and Foreign Commerce and was not properly before that committee for any action, and that therefore the House could not act upon it. The language of clause 4 of the rule certainly gives much countenance to that suggestion, because it provides in the beginning that no bill or joint resolution carrying an appropriation shall be reported by any committee not having jurisdiction to report appropriations, and on the face of it that would seem to prevent a committee not having that jurisdiction—as in the present instance, the Committee on Interstate and Foreign Commerce—from reporting out any such bill. But there is a subsequent sentence in the same clause which provides that a question of order on an appropriation in any such bill may be raised at any time.

That relieves the clause of the objection suggested by the gentleman from Ohio, Mr. Longworth, of destroying our Budget system, because at any time that point of order can be made

¹ Hinds' Precedents, Vol. V, sections 6878–6880.

² First session Sixty-eighth Congress, Record, p. 7869.

³ Frederick H. Gillett, of Massachusetts, Speaker.

against the appropriation. Ever since the present occupant of the chair has been a Member of the House there has been a contention as to appropriating clauses in legislative bills. The Chair remembers that under Mr. Speaker Clark for several sessions he determined on the policy of referring every bill like this which carried an appropriation to the Appropriations Committee. Of course that naturally killed the bill, because the Committee on Appropriations could not report it out. The purpose of Mr. Speaker Clark was to indicate to Members of the House that they must not write appropriations in legislative bills.

While the first clause of the rule does say that no committee shall report out any bill of that kind, yet soon after this rule was adopted the Chair ruled upon it and held that the two clauses were contradictory and therefore that the committee might report out such a bill, the Chair stating very explicitly at the time that it was a new question and that he would welcome a decision by the House upon the question. The House apparently acquiesced in that decision, and that has been the rule since, and the Chair does not see why that does not cover the present case. While technically a committee has no authority under the present language of that clause to report out a bill carrying an appropriation, yet such committees have been reporting out such bills and the House has contented itself with the remedy of striking out the appropriation on a point of order. Therefore, although under the first sentence of that clause it would seem that the Interstate and Foreign Commerce Committee has not jurisdiction, the Chair thinks under the practice it has. The new rule provides that a Member may file a motion to discharge a committee from a bill or resolution which has been referred to it 30 days prior thereto. This bill certainly had been referred to the committee 30 days. The Chair overrules the point of order.

2145. A proposition to render an annual appropriation available until expended is in effect an appropriation for succeeding years and is not within the jurisdiction of a committee other than the Committee on Appropriations.

A point of order having been sustained against a provision of a bill called up on Calendar Wednesday, the House automatically resolved into the Committee of the Whole For consideration of the bill with the offending clause eliminated.

On July 27, 1921,¹ this being Calendar Wednesday, when the Committee on Agriculture was reached, Mr. Gilbert N. Haugen, of Iowa, from that committee, called up the joint resolution (S. J. Res. 72) for the relief of States in the Cotton Belt that have given relief aid to cotton farmers forced from the fields in established nonproduction zones through efforts to eradicate the pink bollworm.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution provided for an appropriation in that it proposed to make a current appropriation available beyond the current fiscal year, and was therefore not within the jurisdiction of the Committee on Agriculture.

In discussing the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, the bill contains two different things. It is specifically provided in this appropriation act that the appropriation shall be available beyond the fiscal year by the language "available until expended." The Agricultural appropriation act, as to this item referred to in this resolution, only makes the appropriation available for the current fiscal year. It seems to me that it may be a somewhat close question, whether the legislative committee has the authority to provide for the use of an appropriation already made by legislation for purposes other than those now in an appropriation act. But making an appropriation available beyond the fiscal year is making a new appropriation, and is clearly contrary to the rule of the House. Whether under the rule the question can be raised at any time, I believe the precedent is that it can be

¹ First session Sixty-seventh Congress, Record, p. 4350.

raised in the House before the bill is taken up in committee, and it can be raised, I assume, on the reading of the bill in committee, the Speaker having properly decided some time ago that it did not go to the reporting of the bill because otherwise the House could not take any action at all on a Senate bill carrying an appropriation.

After further debate, the Speaker ¹ ruled:

The Chair will rule. The Appropriations Committee appropriated the sum of \$554,840 for the eradication of the pink bollworm. That appropriation expires on the 1st of July next. The Agricultural Committee comes in with an amendment which would make a part of that appropriation available during the following year and until expended. In other words, it appropriates a certain portion of the \$550,000 for succeeding years. The Agricultural Committee has no jurisdiction over appropriations, and it seems to the Chair that this clearly is an appropriation. The Chair sustains the point of order.

Thereupon, Mr. Haugen proposed to offer the joint resolution without the clause extending the appropriation.

The Speaker said:

The ruling of the Chair on the point of order strikes out the three words. Under the rule, the House resolves itself into Committee of the Whole House on the state of the Union for the consideration of Senate joint resolution 72, with Mr. Husted in the chair.

2146. A proposition to reappropriate or make available an appropriation previously made or to divert such appropriation to any purpose other than that for which originally made is equivalent to a direct appropriation and is not in order in connection with a bill reported by a committee without authorized jurisdiction to report appropriations.

Committees without jurisdiction to report appropriations may not report propositions to reappropriate appropriations or parts of appropriations already made.

On August 11, 1921,² on motion of Mr. Nicholas Longworth, of Ohio, from the Committee on Ways and Means, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 8107) to control the importation of dyes and chemicals, containing this section:

"That the appropriation 'Collecting the revenue from customs, 1922,' is hereby made available for the payment of salaries and all other expenditures incident to the operation of the dye and chemical section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922."

When the Clerk reached this section in the reading of the bill, Mr. Joseph Walsh, of Massachusetts, made the point of order that it constituted an appropriation and as such was in violation of section 4 of Rule XXI.

The Chairman ³ held:

Section 3 of the bill reported by the Ways and Means Committee provides that the appropriation for collecting the revenue from customs for 1922 "is hereby made available for the payment of salaries and all other expenditures incident to the operation of the dye and chemical section, Division of Customs, Treasury Department, for the fiscal year ending June 30, 1922." To that section the gentleman from Massachusetts, Mr. Walsh, makes the point of order that it carries an appropriation reported by the Committee on Ways and Means, and that under the

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session, Sixty-seventh Congress, Record, p. 4891.

³ Phillip P. Campbell, of Kansas, Chairman.

rules of the House that committee has no jurisdiction over appropriations. Clause 4 of Rule XXI prohibits any other than the Committee on Appropriations from bringing in or making appropriations.

The Speaker a few days ago sustained a point of order in the bollworm case in which it was sought to make an appropriation already made, already available in the Department of Agriculture, available for a new purpose by the Secretary of Agriculture. The point of order was made that that could not be done in a bill reported by the Committee on Agriculture, and the Speaker sustained the point of order. The gentleman from Ohio, Mr. Longworth, cites a decision made by the present occupant of the Chair on the 23d of May of this year. That was an entirely different proposition. In that case an appropriation available for rations was transferred in a deficiency appropriation bill, reported by the appropriating committee, to another purpose, and the Chair held that that transfer could be made. The committee reporting the deficiency appropriation bill, having full jurisdiction, could have reported an original appropriation for the purpose for which the transfer was made. And in that case the Chair overruled the point of order. In this case it seems clear to the Chair that section 3 is an infringement on the jurisdiction of the Committee on Appropriations, and therefore sustains the point of order.

2147. Legislative direction that funds previously appropriated be used for a purpose not specified in the original appropriation was held to be an appropriation in contravention of section 4 of Rule XXI.

The rule forbidding consideration of appropriations in connection with bills reported by nonappropriating committees applies to Senate bills as to House bills.

On January 31, 1923,¹ when the Committee on Merchant Marine and Fisheries was reached in the Calendar Wednesday call of committees, Mr. William S. Greene, of Massachusetts, called up the bill (S. 1771) to acquire a fuel station in the Virgin Islands.

Mr. Thomas L. Blanton, of Texas, raised a question of order against a paragraph providing for the acquisition of a fuel station to be purchased from funds of the Shipping Board already appropriated as a revolving fund for the operation of ships.

Mr. George W. Edmonds, of Pennsylvania, took the position that the purchase of a fuel station was necessarily incident to the operation of ships and therefore within the authorization of the original appropriation.

Mr. Blanton insisted that the pending bill was an authorization to the Shipping Board to expend funds for a purpose not originally provided for, and constituted an appropriation within the purview of section 4 of Rule XXI.

The Speaker² decided:

It seems to the Chair at first blush that we are facing this alternative: The gentleman says there is confusion. If the money has already been appropriated, this legislation is not necessary. If it has not been appropriated, why is not this an appropriation, and therefore against the rule?

The Chair thinks that would be an appropriation. The Chair sustains the point of order.

2148. The language “payment therefor to be made from the appropriate appropriation” constitutes an appropriation, and is subject to a point of order when reported by a committee without authority to report appropriations.

A point of order against an appropriation reported by a committee without authority to report appropriations is in order at any time.

¹ Fourth session Sixty-seventh Congress, Record, p. 2798; Journal, p. 169.

² Frederick H. Gillett, of Massachusetts, Speaker.

Points of order against appropriations in bills from committees without authority to report appropriations are properly directed against the appropriating language only, and when sustained do not affect the remainder of the bill.

On December 10, 1930,¹ the House was considering the bill (H.R. 12412) to permit railroad and electric-car companies to provide mail transportation by motor vehicle in lieu of service by train, reported by the Committee on the Post Office and Post Roads.

During the time allotted to Mr. Archie D. Sanders, of New York, for debate, Mr. Carl R. Chindblom, of Illinois, asked recognition to submit a point of order.

Having been recognized by the Speaker² for that purpose, Mr. Chindblom objected to the last four lines of the bill, providing payment for motor transportation of mail "to be made from the appropriate appropriation for railroad transportation of mail messenger service," on the ground that it constituted an appropriation and was therefore outside of the jurisdiction of the Committee on the Post Office and Post Roads.

The Speaker ruled:

The language complained of by the gentleman from Illinois is as follows:

"Payment therefor to be made from the appropriate appropriation for railroad transportation and mail-messenger service or electric and cable car service."

It occurs to the Chair that this language refers directly to an appropriation already made, not an appropriation for the future or an authorization for the future. It is apparent that the existing appropriation to-day is only for the purpose of railroad transportation and mail-messenger service and electric and cable car service.

This bill proposes that the payment for transportation by bus lines can be made out of this existing appropriation.

In Cannon's Precedents, section 2146, is found the following syllabus of a decision analogous to the situation presented here:

"A proposition to reappropriate or make available an appropriation previously made or to divert such appropriation to any other purpose than that for which originally made is equivalent to a direct appropriation and is not in order in connection with a bill reported by a committee without authorized jurisdiction to report appropriations."

Also, in section 2147, is found the following:

"Legislative direction that funds previously appropriated be used for a purpose not specified in the original appropriation was held to be an appropriation in contravention of section 4 of Rule XXI."

Again in section 2154, is found the following:

"Direction to departmental officers to pay determinable amounts from unexpended balances is equivalent to an appropriation."

It has been held (Cannon's Precedents, sec. 2143) that—

"The point of order that a bill reported by a nonappropriating committee containing an appropriation is properly directed to the item of appropriation and not to the act of reporting the bill. If the point of order is directed to the item of appropriation, that item only is eliminated."

It seems quite clear to the Chair that this is a direct appropriation, and a point of order against those words having been made by the gentleman from Illinois, the Chair, following the decision just given, will rule that those words go out, but the rest of the bill stands.

¹ Third session Seventy-first Congress, Record, p. 532.

² Nicholas Longworth, of Ohio, Speaker.

2149. Legislative direction for disbursements from Indian trust funds was held to constitute an appropriation within the meaning of section 4 of Rule XXI.

Discussion as to time at which the point of order may be made.

On February 3, 1923,¹ during consideration in the Committee of the Whole House on the state of the Union, of the bill (H.R. 13835) reported by the Committee on Indian Affairs and relating to tribal properties of Indians, Mr. Harold Knutson, of Minnesota, offered this amendment:

That the Secretary of the Interior be, and he is hereby, authorized to pay, out of any moneys belonging to the Chippewa Indians of Minnesota, such amounts as he may find due any person of Chippewa blood whose names may have been erroneously stricken from the Chippewa annuity rolls, etc.

Mr. Philip P. Campbell, of Kansas, made the point of order against the amendment that it involved an appropriation in connection with a bill reported by a committee without jurisdiction to report appropriations.

Mr. Knutson contended that the amendment proposed a restriction on the manner in which the money should be paid and was not an appropriation but a limitation, under section 2 of Rule XXI.

Mr. William H. Stafford, of Wisconsin, also objected that the point of order not having been reserved when the bill was read, it was now too late to lodge a point of order against the paragraph.

The Chairman² ruled:

Regarding the point raised by the gentleman from Wisconsin, Mr. Stafford, that if an objection be not made to the main body of the section it can not be raised to an amendment offered to it thereafter, the Chair thinks it is not well taken for the reason that the objection under the rule adopted in 1920 is specific that the objection can be made either to the original provision or to any amendment thereto and at any time.

The point of order raised by the gentleman from Kansas, Mr. Campbell, is very important. The Chair thinks that it should be brought within the requirement that appropriations are exclusively within the jurisdiction of the Appropriations Committee. It is true that this is not an appropriation from the Treasury of the United States, but it constitutes in fact an appropriation of money from the tribal funds which are under the control of the Government. Being under the control of the Government, it seems to the Chair that the same general rules should prevail and that the matter should be considered and passed upon by the Appropriations Committee.

Some years ago an amendment was offered on an appropriation bill which provided that "no money shall be expended from the tribal funds belonging to the Five Civilized Tribes." A point of order was made against this provision as not a limitation within the Holman rule, the grounds urged being that it was not a limitation on an appropriation from the Treasury. After an extended argument the objection was overruled. The effect of this ruling was to apply the same rule to tribal funds as to ordinary appropriations.

In this case the amendment to the section made provides for payment to certain designated persons out of tribal funds. The objection that such a provision is in excess of the authority of the committee would seem clearly within the rules and precedents. The mere fact that bills regarding trust funds need not be considered in Committee of the Whole would not be sufficient to overturn a direct precedent that direction for payment of tribal funds shall be considered an appropriation. For these reasons the Chair sustains the point of order.

¹ Fourth session Sixty-seventh Congress, Record, p. 2988.

² Horace M. Towner, of Iowa, Chairman.

2150. The phrase “warranted and made available for expenditures” is equivalent to “is hereby made available” and is subject to a point of order under section 4 of Rule XXI.

Points of order under the rule apply to appropriations and not to the bill in which carried.

On June 6, 1921,¹ it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa, when the Committee on Agriculture was reached, called up the joint resolution (H. J. Res. 151), the last paragraph of which provided:

All moneys which are received by the Secretary of Agriculture prior to December 31, 1921, as deferred grazing fees shall be considered as receipts of the fiscal year 1921; and when the fees referred to in the above-mentioned act shall have been collected and deposited, they shall be warranted and made available for expenditure for payments to States and for payments for road purposes in the same manner as if they had been received on or before June 30, 1921.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution carried an appropriation, which under section 4 of Rule XXI, the Committee on Agriculture was forbidden to report.

After extended debate the speaker² held:

The Chair understands the gentleman from Massachusetts to make the point of order that this bill is not properly before the House because it includes an appropriation which the Committee on Agriculture had no right to make. Now, the Chair, in conformity with the ruling that the Chair made some time ago, does not think that the point of order can be made that the bill is not properly before the House; in other words, that the committee could not report it. The committee could report it, but the point of order, if it is valid, can be made at any time against the particular clause.

Mr. Walsh having explained that his point of order was directed against the appropriating language and not the bill, the Speaker continued:

The point of order is that the bill makes an appropriation. The Chair regrets that this point of order was raised, because apparently this joint resolution is desirable; but, on the other hand, the Chair in his decision feels that he must for the sake of the future rightly construe the rules of the House regardless of the merits of the resolution. As has been argued, it is very clear that all the first part of the joint resolution does is to change legislation and make the receipts as of the fiscal year 1921. That clearly is in the jurisdiction of the Committee on Agriculture, and no other committee. But it seems to the Chair when it goes further and says when the fees referred to have been collected and deposited they shall be “warranted and made available for expenditures,” that that is simply another phrase to say they shall be appropriated. No funds can be taken out of the Treasury without an appropriation, and unless those words were in the Chair does not see how they could be taken out of the Treasury this year. If, as has been suggested, these words are surplusage, then striking them out does not harm the bill at all, and that is all the point of order can do, just strike out that clause of the bill. So the Chair feels obliged to rule that this clause is tantamount to an appropriation, and sustains the point of order.

The bill can proceed with those words out. The point of order under the new rule can be made at any time. The gentleman from Massachusetts, instead of waiting until the House is in Committee of the Whole House on the state of the Union, exercised his right to make it now. The Chair feels constrained to sustain the point of order and hold that the last half dozen lines are subject to the point of order and must go out of the bill.

¹ First session Sixty-seventh Congress, Record, p. 3384.

² Frederick H. Gillett, of Massachusetts, Speaker.

2151. A provision that moneys covered into the Treasury “Shall constitute a special fund, as the Secretary may direct, for the payment of” certain expenses, was construed as carrying an appropriation.

The rule prohibiting consideration of appropriations in bills reported by nonappropriating committees or amendments thereto, applies to the language only and not to the bill or section in which carried.

When unanimous consent is given for consideration of a bill requiring consideration in the Committee of the Whole the requirement is thereby waived.

On January 19, 1925,¹ the House was considering the bill (H. R. 5939) to facilitate the work of the Forest Service, reading in part as follows:

That all moneys received as contribution toward reforestation or for the administration or protection of lands within or near the national forests shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said reforestation, administration, or protection by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by or for them in excess of their share of the cost.

Mr. Thomas L. Blanton, of Texas, made a point of order on the phrase “is hereby appropriated.”

The Speaker pro tempore² having sustained the point of order, Mr. Gilbert N. Haugen, of Iowa, offered an amendment inserting in lie of that phrase the words “is hereby authorized to be appropriated.”

Mr. Blanton thereupon raised a question of order, contending that his original point of order, having been sustained, applied to the action of the Committee on Agriculture in reporting the bill and, therefore, the bill was no longer before the House.

The Speaker pro tempore said:

In this case the Chair feels bound to sustain the point of order as a technical matter because of the words “is hereby appropriated.” It is these words that the amendment tries to cure. As to striking out the whole bill, under the rules and precedents the point of order should be directed to the item in the bill and not to the whole bill, and so the Chair sustains the point of order to the objectionable words only.

The point of order should have been directed to the item, and that item is ruled out.

Whereupon, Mr. Carl R. Chindblom, of Illinois, submitted that the point of order, though not applying to the entire bill, did apply to the entire section in which the phrase occurred.

The Speaker pro tempore held:

The gentleman is right, that the words “hereby appropriated” should go out, and also that the words “made available until expended” should go out. It is perfectly clear to the Chair—and I assume that the chair made it clear to the House—that the point of order should be directed to the item in the bill, and not be applied to the entire bill and entire section.

Mr. Chindblom then made the point of order that the bill carried a direct appropriation in the following language, to wit:

¹ Second session Sixty-eighth Congress, Record, p. 2002.

² Louis A. Frothingham, of Massachusetts, Speaker pro tempore.

“That all moneys received as contributions toward reforestation or for the administration or protection of lands—”

And so on.

“shall be covered into the Treasury and shall constitute a special fund for the payment of the expenses of said reforestation.”

Mr. Chindblom argued:

This paragraph creates a special fund; it sets aside money for a specific purpose. The word “appropriation” as used in this rule is not the ordinary method of appropriating out of funds existing in the Treasury, but anything which sets aside money for a specific purpose is an appropriation.

The Speaker pro tempore decided:

Here is a special fund created by contributions. After that fund is created and put into the Treasury it has to be gotten out of the Treasury to be used, and consequently the Chair thinks it comes under the ruling made the other day by the gentleman from Connecticut and the precedents for the ruling, that it is an attempt to make an appropriation, and consequently the Chair sustains the point of order. The consequence is that if these words are stricken out the paragraph goes out because it leaves nothing to make sense.

The point of order being sustained, Mr. Haugen offered in lieu of the section stricken out the following amendment:

That all moneys received as contributions toward reforestation or for the administration or protection of lands within or near the national forests is hereby authorized to be covered into the Treasury and shall constitute a special fund which is hereby authorized to be appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said reforestation, administration, or protection by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in, by, or for them in excess of their share of the cost; but the United States shall not be liable for any damage incident to cooperation hereunder.

Mr. Chindblom made the point of order that the amendment was equivalent to a direct appropriation.

After debate, the Speaker pro tempore held:

The whole question, of course, is as to whether this makes an appropriation, or whether it authorizes an appropriation. As has been said, if language was inserted that clearly is an authorization, and was ruled out, it would be impossible for any authorization to be made effective by legislation. If that were so the Committee on Appropriations could not appropriate a fund, which would not then be liable to a point of order. The Chair thinks that the words now used in the amendment clearly constitute simply an authorization, and he overrules the point of order.

Mr. Edward E. Denison, of Illinois, then made the point of order that the bill authorized an appropriation and therefore could not be taken up in the House until considered and reported by the Committee of the Whole House on the state of the Union.

The Speaker pro tempore ruled:

When consent is given for the consideration of a bill upon this calendar, as has been given in this case, the proceedings are entirely in order.

When a bill is made a special order, or when unanimous consent is given for its consideration, the effect is to discharge the Committee of the Whole House on the state of the Union from its consideration, and bring the bill before the House for its consideration, and in such event the bill is considered in the House as in Committee of the Whole.

2152. Provision for establishment of a special fund, to be available with other funds appropriated for the purpose in payment of refunds, was ruled to be an appropriation and subject to a point of order under section 4 of Rule XXI.

On January 12, 1933,¹ in the course of the consideration of the bill (H. R. 13991), the farm relief bill, in the Committee of the Whole House on the state of the Union, this paragraph was read:

(b) The proceeds of all taxes collected under this section, less 2½ per cent for the payment of administrative expenses under this act, shall be covered into the Treasury into a special fund to be available, together with any other funds hereafter appropriated for the purpose, for the payment of any refunds under this section.

Mr. Carl R. Chindblom, of Illinois, raised the question of order that the paragraph was in violation of section 4 of Rule XXI prohibiting committees other than the Committee on Appropriations from reporting appropriations.

The Chairman² sustained the point of order.

Thereupon, Mr. Marvin Jones, of Texas, offered the paragraph in this form as an amendment.

(b) The proceeds of all taxes collected under this section shall be covered into the Treasury, and there are authorized to be appropriated amounts necessary for the payment of refunds under this section.

There was no objection.

2153. Authorization to expend receipts derived from the administration of a law, for administrative expenses, was held to be an appropriation and therefore not in order on a bill reported by a legislative committee.

On January 12, 1933,³ the bill (H.R. 13991) to aid agriculture and relieve the existing national economic emergency, was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read a section which included the following paragraph:

The Secretary of Agriculture is authorized to expend for the payment of administrative expenses under this act not to exceed 2½ per cent of the annual receipts from adjustment charges and taxes under this act.

Mr. John Taber, of New York, made the point of order that the provision constituted an appropriation and was not in order on a bill reported by the Committee on Agriculture.

The Chairman² sustained the point of order.

Mr. Marvin Jones, of Texas, then modified the provision and it was considered and agreed to in this form:

Amounts appropriated for the payment of administrative expenses under this act shall be expended by or under the direction of the Secretary of Agriculture, but the amounts to be expended for such expenses under this act shall not exceed in the aggregate a sum equal to 2½ per cent of the total amount to be collected in adjustment charges and taxes under this act.

¹ Second session Seventy-second Congress, Record p. 1670.

² Lindsay C. Warren, of North Carolina, Chairman.

³ Second session Seventy-second Congress, Record, p. 1687.

2154. Direction to departmental officers to pay determinable amounts from unexpended balances is equivalent to an appropriation.

On November 9, 1921,¹ during consideration of the bill (S. 843) to provide relief in war contracts, a committee amendment was read which included the following:

If in claims passed upon under said act awards have been denied or made on rulings contrary to the provisions of this amendment, or through miscalculation, the Secretary of the Interior may award proper amounts or additional amounts, which shall be paid from the unexpended portion of the appropriation carried in said act.

Mr. William H. Stafford, of Wisconsin, made the point of order that the language was tantamount to an appropriation, and being reported by the Committee on Mines and Mining, was not in order.

After debate, the Chairman² ruled:

The question is rather a close one, involving two very interesting points.

The point raised by the gentleman from Minnesota, Mr. Anderson, that this committee would be permitted to authorize an appropriation, I think would not be contested. The question as to whether this is an authorization or not is a point in doubt, where it says that the Secretary of the Interior may award an additional amount, which shall be paid from the unexpended portion of the appropriation carried in said act. The Chair does not have any hesitancy in saying that an authorization does not necessarily require the word "authorize" to be used. Other language may be employed to mean the same thing, and the specific language would not change the ruling. Whether the Secretary of the Interior may award from the amounts or additional amounts carries an authorization or in addition an appropriation is a very close question. But assuming that it is merely an authorization, the language that follows it, namely, "which shall be paid from the unexpended portion of the appropriation carried in said act," is very strong, and, in the mind of the Chair, equivalent to or tantamount to an appropriation. If it is an appropriation, as the Chair is inclined to think it is, we have a decision directly in point, delivered August 11, 1921, in which we find the following principle was asserted:

"Language reported in a bill from a committee not having jurisdiction to report appropriations, and which reappropriates, makes available, or diverts an appropriation, or a portion of an appropriation already made for one purpose for or to another purpose is not in order."

There are other decisions along the same line.

The Chair admits it is a very close question whether other purposes than are found in the general act is clear, but the Chair is of the opinion that the language is broad enough to include other purposes, and for that reason he is compelled to sustain the point of order.

The Chair understands that the bill does not go off the calendar, because the point of order is directed only to the phraseology of the committee amendment.

2155. An amendment, substituting for authorization of appropriation a direct appropriation immediately available, was held not to be in order on a bill reported by a committee without jurisdiction to report appropriations.

On April 25, 1929,³ the House, in the Committee of the Whole House on the state of the Union, was considering the bill (H. R. 1) to establish a Federal farm board to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries.

¹First session Sixty-seventh Congress, Record, p. 7604.

²Simeon D. Fess, of Ohio, Chairman.

³First session Seventy-first Congress, Record, p. 547.

To a paragraph authorizing the appropriation of a revolving fund of \$500,000,000, Mr. Charles R. Crisp, of Georgia, offered the following amendment:

There is hereby authorized to be appropriated the sum of \$500,000,000, which shall constitute a revolving fund to be administered by the board, of which amount the sum of \$100,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be immediately available. The board is authorized to make loans and advances from the revolving fund as hereinafter provided. All such loans and advances shall bear interest at a rate to be fixed by the board. Repayments of principal upon any loan or advance shall be covered into the revolving fund. Payments of interest upon any loan or advance shall be covered into the Treasury of the United States as miscellaneous receipts.

Mr. Gilbert N. Haugen, of Iowa, made a point of order that the amendment proposed a direct appropriation.

The Chairman¹ sustained the point of order.

2156. Provision that disbursements “shall be paid from the appropriation made to the department for that purpose” was construed as an authorization merely and not an appropriation, and therefore not subject to a point of order under section 4 of Rule XXI.

On January 24, 1923,² the House was considering in the Committee of the Whole House on the state of the Union, the bill (H.R. 13773), the radio-control bill reported by the Committee on Merchant Marine and Fisheries, and containing the following paragraph:

The necessary expenses of the members of the committee in going to, returning from, and while attending meetings of the committee, including clerical expenses and supplies, together with a per diem of \$25 to each of the six members not otherwise employed in the Government service, for attendance at the meetings, shall be paid from the appropriation made to the Department of Commerce for this purpose.

Mr. Thomas L. Blanton, of Texas, directed a point of order to the language “shall be paid from the appropriation made to the Department of Commerce for this purpose” contending that it was in effect an indirect appropriation reported by a committee without jurisdiction to report appropriations.

The Chairman³ overruled the point of order and said:

The inspection of that language indicates that it is legislative in character. There is no other way for a legislative committee of the House to authorize the expenditure of expenses than by providing it in language in this way. If perchance there happens to be an appropriation available for that purpose, that does not mean that this bill is carrying an appropriation. It may affect the appropriation, but it does not carry one, and it is not the purpose of the rule restricting committees from making appropriations to prevent them considering and reporting legislative authorizations. It is clearly an authorization. Otherwise a legislative committee would not have any means of providing authorization for expenditure if perchance there happened to be some appropriation that might be available for that purpose.

The Chair overrules the point of order and sustains the former ruling, that is it not subject to a point of order.

¹ Carl E. Mapes, of Michigan, Chairman.

² Fourth session Sixty-seventh Congress, Record, p. 2354.

³ William H. Stafford, of Wisconsin, Chairman.

2157. A legislative provision crediting the general account of the District of Columbia was held not to be an appropriation within the purview of the rule.

On January 12, 1925,¹ when the bill (S. 703) for the adjustment of accounts between the United States and the District of Columbia was read for the first time in the Committee of the Whole House on the state of the Union, Mr. Louis C. Cramton, of Michigan, made the point of order that the bill proposed an appropriation in the following language:

“There shall be credited to the general account of the District of Columbia required under the provisions of the first paragraph of such act, to be kept in the Treasury Department, the following sums.”

And then various sums are enumerated.

On page 3 it is set forth in line 5 and following that—

“The sum of \$4,438,154.92, representing the difference between such credits and charges, is hereby made permanently available in such account of the District of Columbia for appropriation by the Congress for such purposes as it may from time to time provide.”

After debate the Chairman² said:

The point of order of the gentleman from Michigan, Mr. Crampton, is that this bill carries an appropriation and therefore can not be reported by this committee, because the committee has no jurisdiction to report appropriations. He makes the point of order under section 4 of Rule XXI. The part applicable to this case is the first portion of the section, which the Chair will read:

“No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations.”

The gentleman from Michigan maintains that in effect this bill makes an appropriation. In order to consider the matter from all sides let us turn it around for a moment. Suppose that the District of Columbia appropriation bill were pending before the committee and the gentleman from Maryland Mr. Zihlman should arise and attempt to offer this bill as an amendment to the appropriation bill on the ground that it is an appropriation. If the gentleman from Michigan were on guard, we should be very probably see him rise in his place and contend that it is not an appropriation, in order to keep it off his appropriation bill.

The question is whether it is, in fact an appropriation; and that raises the question of just what an appropriation is, in the sense in which it is used in the rule. It does not follow because the ultimate result would be to charge the Treasury with an additional \$4,500,000 over and above that with which it is now charged that it is therefore an appropriation. As the Chairman understands, what in the last analysis constitutes an appropriation is the final authority for separating from the Treasury a sum of money carried in a bill.

It seems clear to the Chair that this bill does not carry an appropriation in the sense in which that word is used in the rules of this House. Therefore the Chair overrules the point of order made by the gentleman from Michigan.

2158. Authorization for withdrawal from the Treasury of money belonging to a governmental agency, even though it would otherwise eventually revert to the Government, was construed not to be an appropriation.

¹ Second session Sixty-eighth Congress, Record, p. 1714.

² John Q. Tilson, of Connecticut, Chairman.

Payment of a claim from surplus funds of the Sugar Equalization Board, a corporation created by act of Congress, the assets of which are by law converted into the Treasury upon liquidation of the corporation board, was held not to be subject to a point of order under section 4 of Rule XXI.

On April 14, 1926,¹ it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa when the Committee on Agriculture was reached in the call of committees, called up the following bill:

Be it enacted, etc., That the President is authorized to require the United States Sugar Equalization Board (Inc.) to adjust with Robert A. Watson, of South Orange, N.J., a certain transaction entered into and carried on by said Watson under the direction of the Department of Justice, which transaction involved the purchase in the Argentine Republic between the 11th day of June, 1920, and the 30th day of June, 1920, of 3,500 tons of Argentine refined sugar, the importation thereof into the United States, and the distribution of the same within the United States, and to require the said United States Sugar Equalization Board (Inc.) to liquidate and adjust the entire transaction in such manner as may be deemed and said board to be equitable and proper in the premises, paying to the said Watson such sums as may be found by said board to represent the actual loss sustained by him in said transaction, and for this purpose the President is authorized to vote or use the stock of the corporation held by him, or otherwise exercise or use his control over the said United States Sugar Equalization Board and its directors, and to continue the said corporation for such time as may be necessary to carry out the intention of this act.

Mr. David H. Kincheloe, of Kentucky, made the point of order that the bill, although reported by the Committee on Agriculture, provided for an appropriation.

Mr. Frederick R. Lehbach, of New Jersey explained:

The record in this instance is the books of the Treasury and the books of the corporation.

They show that this money belongs to and is in the possession of the corporation. Would the gentleman hold, in accordance with his argument, that the retirement fund, made up of contributions by the employees for the purpose of paying for their retirement, being in the physical possession of the Treasury, therefore belongs to the Treasury as its own funds? The mere presence of the money in the Treasury does not make it the property of the United States Government.

This corporation, the Sugar Equalization Board, was created by an act of Congress.

The funds do not belong to the Government until the Sugar Equalization Board goes into liquidation. At that time, under the law creating the board, the money is paid into the Treasury.

The Speaker² ruled:

It appears to the Chair that this money arises from the profits made by the corporation. And this payment would have no connection with the Treasury.

The point of order is that this is an appropriation, and the Committee on Agriculture has no authority to report an appropriation.

This money is no part of the Treasury funds. This money was made by the corporation in the ordinary transaction of business, and amounts, as the Chair understands, to about \$30,000,000, which is owned by the corporation.

If that be the fact, the Chair thinks that this is not an appropriation in the sense of its taking money out of the United States Treasury, and therefore overrules the point of order.

¹ First session Sixty-ninth Congress, Record, p. 7456.

² Nicholas Longworth, of Ohio, Speaker.

2159. Language authorizing payments from appropriations for purposes for which originally made does not propose an appropriation.

Provision that the cost of certain surveys should be paid “from appropriations made for that purpose” was held not to come within the inhibition of the rule.

On June 3, 1926,¹ the House in the Committee of the Whole House on the state of the Union was considering the river and harbor bill, when the Clerk read the following committee amendment:

The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, the cost thereof to be paid from appropriations made for that purpose.”

Mr. Carl E. Mapes, of Michigan, made the point of order that the amendment proposed an appropriation.

The Chairman² said:

The Chair overrules the point of order. The amendment does not make available any money not appropriated and, therefore, it is not in itself an appropriation. It is not subject to a point of order. The question is on agreeing to the committee amendment.

2160. Provision for redemption at the treasury of adjustment certificates issued by the Secretary of Agriculture in administration of the Farm Relief Law and drawn on a special fund provided for the purpose was held not to constitute an appropriation within the meaning of section 4 of Rule XXI.

On January 11, 1933,³ the bill (H. R. 13991), the farm relief bill, was under consideration in the Committee of the Whole House on the state of the Union when, in the reading of the section dealing with the issuance of adjustment certificates to producers who complied with the provisions of the bill pertaining to reduction of acreage, this clause was reached:

Certificates shall be accepted for redemption at the United States Treasury.

Mr. John Taber, of New York, made the point of order that the provision amounted to an appropriation and was therefore a violation of clause 4 of Rule XXI, prohibiting the report of bills carrying appropriations by other committees than the Committee on Appropriations.

Mr. Marvin Jones, of Texas, explained⁴ that the certificates were payable from a special fund provided from taxes authorized by the bill for the purpose and said:

In the latter part of the bill provision is made for an appropriation for these certificates. It was the intention to have redemption depend on the money being made available for that purpose. That means that if a man presents a certificate, if there is any money there, he will be paid, but if there is not he will take it home. I think there will be money if the necessary appropriation is made for the purpose of carrying out the provisions of the bill.

¹ First session Sixty-ninth Congress, Record, p. 10682.

² Frederick R. Lehlbach, of New Jersey, Chairman.

³ Second session Seventy-second Congress, Record, p. 1602.

⁴ Record, p. 1604.

The Chairman¹ held:

The Chair does not think that a method providing for the redemption of such certificates could be construed as an appropriation, nor does the chair think the language comes within the restrictions provided in Rule XXI, clause 4, and therefore overrules the point of order.

2161. Instance wherein a select committee created by resolution was continued by law beyond the expiration of the term of the Congress.

Form of resolution creating a select committee.

Form of enactment continuing a select committee into the next Congress.

Bills reported by special committees authorized to report at any time are privileged.

On July 3, 1930,² the House agreed to the following resolution:

Resolved, That the Speaker is authorized and directed to appoint a select committee to be composed of seven Members of the House, whose duty it shall be to investigate the various elements, factors, and conditions which may be deemed pertinent and essential to the accumulation of data and information bearing upon the question of fiscal relations between the United States and the District of Columbia and to recommend to the House what amount, in their judgment, the United States should contribute annually toward the development and maintenance of the municipality.

SEC. 2. Such committee is also authorized and empowered to investigate fully the various forms of municipal taxation and sources of revenue of the District of Columbia and to recommend to the House such new forms of taxation and sources of revenue and/or such changes in existing forms of taxation and sources of revenue as to them may seem just and fair.

SEC. 3. The committee is authorized to sit during the sessions and recesses of the House, to hold hearings, to require the attendance of witnesses, to compel the production of books, papers, and documents, and to take testimony.

SEC. 4. The committee shall have the right to report to the House at any time by a bill or bills, or otherwise, the results of its investigations.

SEC. 5. The necessary expenses of the committee are hereby authorized, including the employment of personal services. Any printing and binding may be charged to the appropriation for printing and binding for Congress.

SEC. 6. The Commissioners of the District of Columbia and the other officers and employees of the municipal government are requested to furnish the committee such assistance as may be needed in connection with such investigations, and the United States Bureau of Efficiency may be reimbursed from any allotment made for carrying out the purposes of this resolution to the extent of actual expenditures made by such bureau for investigations made at the request of the committee.

Pursuant to the resolution the select committee was appointed and, not having completed its work at the close of the session, was continued under the act approved February 23, 1931,³ as follows:

Those members of the select committee on fiscal relations, House of Representatives, appointed pursuant to House Resolution Numbered 285, Seventy-first Congress, who are Members elect to the Seventy-second Congress, or a majority of them, during the period from March 4 to December 31, 1931, inclusive, are hereby authorized to continue the investigations and to have the authority and privileges provided in such House resolution. Any unobligated committee from the

¹ Lindsay C. Warren, of North Carolina, Chairman.

² Second session Seventy-first Congress, Record, p. 12530.

³ 46 Stat. L., p. 1377

contingent fund of the House under the authority of House Resolution Numbered 329, Seventy-first Congress, shall remain to the credit of such committee as continued hereby, to be paid out on the usual vouchers approved as now provided by law.

On December 15, 1931,¹ Mr. Carl E. Mapes, of Michigan, from the select committee, submitted the bill (H. R. 5821), to provide for the taxation of incomes in the District of Columbia, to repeal certain provisions of law relating to the taxation of intangible personal property in the District of Columbia, and for other purposes, together with a report on the bill, which was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. William H. Stafford, of Wisconsin, inquired if the bill was to be considered as privileged.

The Speaker² said:

The bill is privileged under a resolution passed by the last Congress. Section 4 of House Resolution 285, passed by the Seventy-first Congress, reads as follows:

“The committee shall have the right to report to the House at any time by a bill or bills, or otherwise, the results of its investigations.”

The authority of this resolution was later extended by the act of February 23, 1931.

2162. Under the rules, bills are referred to the standing committees and not to select committees unless by action of the House.

On April 13, 1932,³ Mr. Carl Vinson, of Georgia, rising to a parliamentary inquiry, asked if it would be in order to refer certain bills which he proposed to introduce, to a select committee known as the Economy Committee, appointed February 24, 1932,⁴ pursuant to House Resolution No. 151.

Mr. Vinson explained that the bills would come regularly within the jurisdiction of the Committee on Naval Affairs, but because of the economies which they proposed to effect, he desired to have them referred to the select committee.

The Speaker² said:

The rule requires that all bills should be referred to standing committees. The Economy Committee expires at the close of this session. The Chair thinks the better policy would be to refer them to the standing committees.

¹ First session Seventy-second Congress, Record, p. 554.

² John N. Garner, of Texas, Speaker.

³ First session Seventy-second Congress, Record, p. 8139.

⁴ Record, p. 4634.